

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

EDWARD D. QUERO,

Petitioner,

vs.

H.L. HUFFORD, Warden,

Respondent.

CASE NO. 3:11-CV-00238

(Judge Kosik)

**FILED
SCRANTON**

JUN 10 2011

Per M. E. P.
DEPUTY CLERK

MEMORANDUM AND ORDER

AND NOW, THIS 10th DAY OF JUNE, 2011, IT APPEARING TO THE
COURT THAT:

(1) Petitioner, Edward D. Quero, a prisoner confined at the FCI-Schuylkill, Minersville, Pennsylvania, filed the instant petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 on February 3, 2011;

(2) In his petition, petitioner seeks a reduction of his sentence based on the conditions of confinement while he was housed at Passaic County Jail;

(3) The action was assigned to Magistrate Judge J. Andrew Smyser for Report and Recommendation;

(4) On May 18, 2011, the Magistrate Judge issued a Report and Recommendation (Doc. 10) wherein he recommended that the petition for writ of habeas corpus be dismissed;

(5) Specifically, the Magistrate Judge found that a § 2241 habeas corpus petition is not a proper vehicle to seek a reduction of sentence based on the conditions of confinement an inmate was subjected to in the past;

(6) Petitioner has failed to file timely objections to the Magistrate Judge's Report and Recommendation.

AND, IT FURTHER APPEARING THAT:

(7) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a de novo review of his claims. 28 U.S.C. § 636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F. 2d 874, 878 (3d Cir. 1987).

(8) We have considered the Magistrate Judge's Report and we concur with his recommendation.

(9) After reviewing the petition, we agree with the Magistrate Judge that the Petitioner's claims are not properly pursued in a § 2241 habeas corpus petition and that the petition should be dismissed.

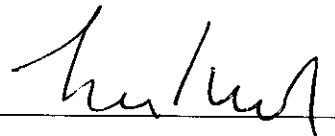
ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge J. Andrew Smyser dated May 18, 2011 (Doc. 10) is **ADOPTED**;

(2) The Petitioner's petition for writ of habeas corpus is **DISMISSED**;

(3) The Clerk of Court is directed to **CLOSE** this case and to forward a copy of this Memorandum and Order to the Magistrate Judge; and,

(4) Based on the court's conclusion herein, there is no basis for the issuance of a certificate of appealability.



Edwin M. Kosik
United States District Judge